

**REMARKS****Summary of the Ex Parte Quayle Office Action**

Applicants appreciate the Examiner's allowance of claims 1-15.

The specification is objected to because it fails to include "CROSS-REFERENCE TO RELATED APPLICATIONS."

The Abstract is objected to because it includes reference numbers.

Claims 15 stands objected to for alleged informalities.

**Summary of the Response to the Office Action**

Applicants have amended the Abstract and traverse the objections to the specification and claim 15. Claims 1-15 remain currently pending for consideration.

**The Objection to the Specification**

As indicated above, the Abstract is being amended as requested by the Examiner. However, Applicants respectfully traverse the Examiner's requirement to add the "cross-reference to related applications" designation in the specification. Specifically, Applicants note that this application is a U.S. national phase of a PCT application. As stated in MPEP § 1893.03(c)III, "a national stage application submitted under 35 U.S.C. 371 may not claim benefit of the filing date of the international application of which it is the national stage since its filing date is the international filing date of the international application. See also MPEP § 1893.03(b). Stated differently, since the international application is not an earlier application (it has the same filing date as the national stage), a benefit claim under 35 U.S.C. 120 in the national stage to the international application is inappropriate and may result in the submission being treated as an

application filed under 35 U.S.C. 111(a). See MPEP § 1893.03(a). Accordingly, it is not necessary for the applicant to amend the first sentence(s) of the specification to reference the international application number that was used to identify the application during international processing of the application by the international authorities prior to commencement of the national stage.” (emphasis added).

Accordingly, Applicants respectfully request that the Examiner withdraw the objections to the specification and Abstract.

### **Objection to Claim 15**

Applicants respectfully submit that dependent product claim 15 is in proper format even though it depends from method claim 1. As stated in MPEP § 601.08(n)III, “[t]he fact that the independent and dependent claims are in different statutory classes does not, in itself, render the latter improper. Thus, if claim 1 recites a specific product, a claim for the method of making the product of claim 1 in a particular manner would be a proper dependent claim since it could not be infringed without infringing claim 1. Similarly, if claim 1 recites a method of making a product, a claim for a product made by the method of claim 1 could be a proper dependent claim.” (emphasis added). Applicants respectfully submit that this is the present case. Accordingly, Applicants respectfully request that the Examiner withdraw this objection.

### **CONCLUSION**

In view of the foregoing, Applicants submit that this application is now in condition for allowance in light of the Examiner’s issuance of an Ex Parte Quayle Office Action. Accordingly, Applicants respectfully request reconsideration and timely allowance of the

pending claims. Should the Examiner feel that there are any issues outstanding after consideration of this response, the Examiner is invited to contact Applicants' undersigned representative to expedite prosecution. A favorable action is awaited.

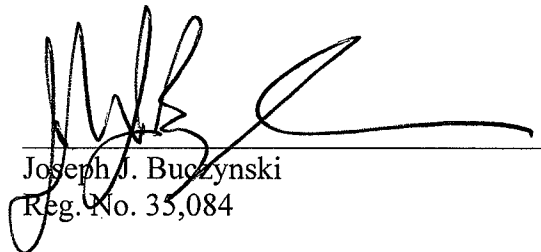
**EXCEPT** for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. § 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account No. 50-0573. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

Respectfully submitted,

**DRINKER BIDDLE & REATH LLP**

Dated: February 19, 2009

By:

  
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